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Remarks

In view of the following discussion, the Applicant submits that none of the claims now pending in the application are non-enabling, anticipated, or obvious under the respective provisions of 35 U.S.C. § 112, §102, and §103. Thus, the Applicant believes that all of these claims are now in allowable form.

It is to be understood that the Applicant, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing this Response.

Applicant has reviewed the Examiner's Detailed Action, in particular the Response to Arguments section, but is still not in agreement with the Examiner's interpretation of the art in view of the pending claims. Applicant acknowledges the Examiner's further inspection of Larsson and its failure to provide a one-step process of granting credit without the new request. The new ground of rejection based on the new reference is considered in detail below.

Additionally, Applicant gratefully acknowledges the Examiner's indication of allowable material with respect to objected to claims 7-9, 14 and 28-30. However, no specific action is taken with respect to these claims at this time in view of further prosecution of the independent claims from which these claims depend.

Rejections

The Examiner has rejected claims 1-6, 10-13, 15-27 and 31-36 under 35 U.S.C. §103(a) as being unpatentable over U.S. 6,172,963 issued January 9, 2001 to Larsson et al.(hereinafter "Larsson") in view of U.S. 5,978,359, issued November 2, 1999 to Caldara et al. (hereinafter "Caldara") and U.S. 6,249,819 issued June 19, 2001 to Hunt et al. (hereinafter "Hunt"). For sake of brevity, the Examiner's entire argument will not be repeated herein as it has been specifically stated by the Examiner and repeated by the Applicant in previous

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communications therebetween. Simply stated, the Examiner concludes that it would have been obvious to a person of ordinary skill in the art to use the feedback message of Caldara in combination with the credit-based flow control system of Larsson to provide a switch that selectively sends data from a first stage of input ports to a second stage of output ports in accordance with the fullness or availability of each output buffer and to provide such feedback message without receiving a request from the first stage as allegedly shown in Hunt. The rejection is respectfully traversed.

Specifically, the Examiner relies on Larsson for a system that takes into account the degree of fullness of the output buffers when determining how many cells or credits can be sent from each input port. The Examiner relies on a control unit (20) to provide the switch with the appropriate intelligence to perform such operation. Additionally, Larsson indicates that the intelligence may also be located outside the switch and incorporated into the input buffers (such description allegedly meeting the limitation of an integrator block in a first stage processor of the subject invention).

In response, it is respectfully submitted that there is a discrepancy between the Examiner's position and what the reference actually teaches. Specifically, Larsson does indicate that the intelligence (control unit) could be outside the switch core; however, the reference does not teach or suggest that such intelligence could be incorporated into the input buffers. The reference specifically says, "or one could also conceive a solution without a separate control unit... and with these facts together with the information sent from the input ports...calculate how many cells can be permitted to be sent to the next time interval." This point was brought up earlier in the prosecution history, but requires additional consideration in view of the Examiner's continuing reliance upon this portion of the reference. That is, if the reference is only disclosing that a solution without a control unit could be conceived, it is respectfully offered that this does not constitute a teaching of such solution in that there is plainly not enough information provided in the reference to implement such alternate

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solution. Additionally, there is only a suggestion of conceiving such an alternate suggestion and not a suggestion of using such solution in a way that is combinable with other cited art. It is respectfully submitted that this leaves the person of ordinary skill in the art to have to derive or conceive of the alternate solution (and perform the attendant investigation and experimentation of same) rather than just applying such solution to solve the associated problems. Therefore, it is respectfully submitted that Larsson leaves a large gap in the prior art with respect to the integrator blocks as claimed because the reference does not provide sufficient teachings or provide a person of ordinary skill in the art with sufficient suggestion to apply such a solution.

The Examiner relies on Caldara for its feedback message 30 such that the ACCEPT/REJECT bit has an alleged equivalent to the function of the token bit of the Applicant's invention. The Examiner initially relies on the obviousness that there must be some component present in Caldara to count the number of cells in the output buffers and compare them to a threshold level to thereby meet the limitation at a statistics block as described in the present invention. In response, it had been previously discussed in detail how Caldara as a whole is in opposite to the subject invention and the details of same are provided in Applicant's response of June 2004; therefore, are not repeated herein. Existence of the ACCEPT/REJECT bit of Caldara is acknowledged by the Applicant; however, such message is part of a two-step process to send a data packet which is not in accordance with the subject invention.

Lastly, the Examiner introduces Hunt and its disclosure of a quantum flow control where transmission permission and granting of credits is allegedly performed without any request from upstream elements. The Examiner uses the alleged teaching of Hunt in combination with the feedback message of Caldara and the control system of Larsson to assert the obviousness of the subject invention. In response, and upon inspection of Hunt, it is respectfully submitted that there continues to be lack of sufficient teachings or suggestions in the art to bridge the substantial gap between same and the present invention. Specifically,

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the quality flow control mechanism of Hunt was not viewed in its entirety by the Examiner when formulating the rejection. Specifically, the Examiner-cited column 3, lines 36-62 indicates,

"a permission 26 is transmitted from downstream network device 14 to central network device 10 indicating a number of transition credits before central network device 10 transmits the data unit 22 to the downstream network device. Further, a permission 28 is transmitted from central network device 10 to upstream network device 12 indicating a number of transmission credits before the upstream network device 12 transmits the data unit 22 to the central network device 10."

Accordingly, it is respectfully submitted that Hunt discloses a relationship between the permission (likened to the subject token bit) and the to-be-sent data unit 22 in that such permission transmissions occur before the data unit is sent. Such teaching is not in accordance with the subject claim language because the token bit of the subject invention is transmitted in response to the receipt of a (earlier sent) data packet. That is, there is a completely different cause and effect relationship between the message and data packet of the subject invention versus that relationship disclosed in Hunt.

Accordingly, it is respectfully submitted that each of the three cited references contain some defect in their teachings so as to prevent suggestion of the claimed subject matter to one of ordinary skill in the art. It has long been established that "...a combination is proper, however, only if there is some objective teaching in the prior art that would lead one of ordinary skill in the art to combine the relevant teachings of the references." In re Fine, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). See also In re Rhinehart, 189 U.S.P.Q. 143, 147 (CCPA 1976). Since each of the cited references fail to teach what the Examiner

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proposes to be an element of the claimed subject matter, the combination of said references similarly fail to make obvious the claims as a whole.

As such, the Applicant submits that claims 1, 10, 19 and 31 are not obvious and fully satisfy the requirements under 35 U.S.C. § 103 and are patentable thereunder. Furthermore, claims 2-9, 11- 18, 20-30 and 32-36 depend, either directly or indirectly, from independent claims 1, 10, 19 and 31 and recite additional features thereof. As such, and for at least the same reasons discussed above, the Applicant submits that these dependent claims also fully satisfy the requirements under 35 U.S.C. § 103 and are patentable thereunder. Therefore, the Applicant respectfully request that the rejection be withdrawn.

Conclusion

Thus, the Applicant submits that claims 1-36 are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

2/7/05

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